

AMERICAN CIVIL LIBERTIES UNION

#3.
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Norman Dorset
President
Ira Glasser
Executive Director

June 18, 1984

MEMORANDUM

TO: ACLU Affiliates
FROM: Ira Glasser
Re: Freedom of Information Act/CIA Legislation

I have previously sent you my article in The Nation explaining why we support H. R. 5614, a bill which exempts the CIA from the obligation to search and review certain files. The article explains why we believe the bill we have negotiated will reduce the intolerable delays now experienced by people making FOIA requests of the CIA, without diminishing public access to information that we believe ought to be available.

Subsequently, you received a package of materials from the Southern California affiliate, in support of its Executive Committee's decision to oppose the bill. Their material cites several reasons why they think the bill ought to be opposed. While some of the points they raise are dealt with in my Nation article, others are not and I thought it would be useful to provide you with our response to the questions raised by Southern California. Accordingly, I asked Mort Halperin to respond to their specific questions. His memorandum to me is attached.

I want to emphasize, as Ramona has, that this disagreement does not reflect a "split" between the affiliate and the national office, nor is it the product of any residual problems relating to the financial structures fight of a year ago, which is entirely resolved now. Rather, this is an issue on which reasonable people can disagree. But it is also an extraordinarily complex issue, involving very complicated and difficult facts and procedures. It is not easy to master or explain how the FOIA relates to the CIA or what the effects of this legislation are. Over the past six months, I have spent dozens of hours in Washington with John Shattuck, Mort and other Washington staff scrutinizing this legislation in great detail. We all began with enormous skepticism, and raised all of the questions Southern California is now raising. We decided that to resolve those questions, we would insist on certain clear and unambiguous provisions or else we would

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oppose the legislation. Each of our demands was eventually met, not in the Senate version of the bill, which we would not support, but in the House version, which we do support.

The difficulty and complexity of these issues are reflected by the fact that despite the review Southern California has made of the materials it received, I do not think they fully understand the House version of the bill and the report that accompanies it and which gives additional meaning to the bill itself.

In short, after very careful analysis over many months by me and by those on our staff who are the acknowledged experts on the FOIA, I am persuaded that there is no danger of any loss of information, much less the "severe losses" Southern California thinks possible. Moreover, I believe there is a real possibility of modest but important gains from this legislation. Had I not reached this conclusion and been comfortable with it, I would not have made the decision that the ACLU should endorse the House version of the bill.

Of course, the ACLU is and must remain at the forefront of the fight against secrecy and improper CIA surveillance as well as all covert operations. That requires us to struggle against all bills and executive actions that diminish public access to information. But it does not require us to oppose legislation that "smacks of less openness" or that merely "appears" to permit more secrecy if, upon careful scrutiny and analysis, we determine that the danger is only apparent and that the legislation will promote our objectives. We rely on the FOIA in our fight against improper CIA actions and we cannot afford to judge proposals by their surface appearance rather than their real consequences.

If you have any specific questions that are not answered by my previously distributed Nation article or by the attached memorandum, please let me know.

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